IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19213 of 1997

Between:

Angel Hostel, Nuzvid, rep. by its Rector and Warden

Father Joseph Vempony

..... PETITIONER

AND

1. The Commissioner, Nuzvid Municipality, Nuzvid,

Krishna District.

2. Municipal Council, Nuzvid, rep. by its Chairman,

Nuzvid, Krishna District.

3. Special Commissioner and Director of Municipal

Administration, MCH Office Complex, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring that the buildings of the petitioner hostel are exempt from the

property tax under Sec. 88(1)(c) of the A.P. Municipalities Act, 1965 and the action of the respondents in demanding the property tax and the proceedings of the respondents including ROC.No.777/97-A1, dated 16-07-1997 denying the statutory exemption and demanding payment of property tax is illegal and arbitrary.

Counsel for the Petitioner:MR.M.V.DURGA PRASAD

Counsel for the Respondent No.3.: GP FOR MUNCIPAL ADMN. & URBAN DEV. (not present)

Counsel for the respondent Nos.1&2: Mr.E.Sambasiva Pratap (not present)

The Court made the following

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Nobody appears for the respondents. The case was listed on 27-10-2004, then on 01-11-2004 and again today. Counter has also not been filed. Therefore, the writ petition has to be decided on the basis of the material placed before us by the writ petitioner.

The case of the petitioner is that it is a hostel, which is being run free of cost for students of a junior college, to which the hostel is attached and as such is exempt from property tax in terms of Section 88(1)(c) of the Andhra Pradesh Municipalities Act,1965 (for short "the Act").

We have seen from the correspondence between the petitioner and the respondents, which has been placed on record by the petitioner that the exemption has not been granted to the petitioner on the ground that the hostel was not available to people other than the students of the college. The respondents, in their letters, referred to G.O.Ms.No.468, Municipal Administration, dated 31-07-1993. In the first instance, we have not been able to find anything in G.O.Ms.No.468, disentitling the petitioner from exemption granted under the Act. Secondly, even if

there was any such stipulation in G.O.Ms.No.468, that could not restrict the scope of a statute, namely, Section 88 of the Act.

Section 88(1) (c) lays down that:

Section 88. General Exemptions:-

1. *The following buildings and lands shall be exempt from the property tax:-*

b. ……..

a. …….

b. *buildings used for hostels, public buildings and places used for the charitable purpose of sheltering the destitute or animals, and libraries and playgrounds which are open to the public.*

Even by the language of the provision, it becomes quite clear that buildings used for hostels, public buildings and places used for the purpose of sheltering the destitute or animals, libraries and playgrounds are exempt from the tax.

It is the contention of the petitioner that the hostel is being run free of cost and no fee is charged from the students who are admitted in the college or hostel. These facts have not been controverted as no counter is filed. Therefore, the writ petition is allowed and it is held that the petitioner is not amenable to tax and is exempt from payment of property tax in terms of Section 88(1)(c) of the Act. No order as to costs.

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(BILAL NAZKI, J)

3rd November, 2004.

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(S.ANANDA REDDY, J)

vrn

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the third day of November, Two thousand and Four.

To

1. The Commissioner, Nuzvid Municipality, Nuzvid,

Krishna District.

2. The Chairman, Municipal Council, Nuzvid, Nuzvid,

Krishna District.

3. Special Commissioner and Director of Municipal

Administration, MCH Office Complex, Hyderabad.

4. Two C.Cs to the Government Pleader for Municipal

Administration and Urban Development, High Court of A.P,

Hyderabad (OUT)

5. Two C.D copies